

Stakeholder Comment Form
Senate discussion draft of Title V of the Rehabilitation Act of 1973, as Amended

This form should accompany your organization's comment letter. Please send both documents (as attachments to a single email) to ews@help.senate.gov.

Organization: Council of State Administrators of Vocational Rehabilitation

One contact person: Steve Wooderson

Contact email: swooderson@rehabnetwork.org

Contact phone number: 202-604-7880

In order of priority, please provide a full description of each item highlighted in your organization's comment letter, including specific legislative references (e.g., Sec. 111(a) (1) (A)...), along with legislative language. Use additional pages as necessary.

SEC. 131. PERFORMANCE ACCOUNTABILITY SYSTEM; (2) INDICATORS OF PERFORMANCE.—

Proposed Language/Provision: The entire section.

CSAVR Comment: Sec. 131 (b) 2(1) refers to the percentage of program participants who are employed during the first or second full calendar quarter after exit from the program (emphasis added). Assuming that exit from the program refers to case closure, VR does not close persons from the program until they are fully stabilized in employment and have been working a minimum of 90 days. This definition of "exit from the program" is very different from DOL programs and is but one example of CSAVR's concerns with the establishment of common performance measures. A second area of concern is credit given for the attainment of credentials. While CSAVR believes that individuals who obtain recognized post-secondary credentials or secondary school diplomas have better employment opportunities and outcomes, it is the employment outcome and not the attainment of a credential that should be measured for the work programs, such as Vocational Rehabilitation and the One-Stop Centers. While the attainment of credentials seems very appropriate as a performance outcome for Title III of WIA, we do not believe it to be an appropriate measure for Title I or Title V. In addition, individual choice and services supporting job retention, following a disability, may not include the attainment of credentials.

Common performance measures imply that all things are equal across core programs and this is simply not the case. Differences in populations served, in the level of significance of disability of individuals served, differences in the comprehensive approach to individualized services, length and the cost to deliver services are drastically different for VR consumers than for consumers served by other core partners in WIA. Unless these differences can be addressed through adjusted levels of performance for the VR Program, or unless common performance measures will not be used to compare systems in any manner, CSAVR has significant concerns with a system of common performance measures.

CSAVR does believe that each system under WIA should have meaningful performance measures that accommodate the unique nature of each of the programs and believes that the current standards and indicators for the Vocational Rehabilitation program are meaningful performance measures for individuals served by VR. Rather than common measures, CSAVR would propose making improvements, as appropriate, to existing performance measures for core partners which are appropriate measures of

accountability for each programs authorizing legislation. Modifying data collection systems of core programs to capture data for common performance measures and reporting requirements will cost millions of dollars that could be better spent on improving existing systems for core partners to increase data collection for those elements that make sense, based on authorizing legislation.

SEC 512 STATE PLANS

PLAN REQUIREMENTS - Section 101(a) 29 U.S.C.721 (a) is amended – (l) in paragraph (l) (A) in subparagraph (A)

“To receive funds under this Title for a fiscal year, a State shall submit, and have approved by the Secretary and the Secretary of Labor a unified State Plan in accordance with section 112, or combined State Plan in accordance with section 113, of the Workforce Investment Act of 2011. The unified or combined State Plan shall include, in the portion of the plan described in section 112(b)(2)(D) of such Act (referred to in this subsection as the vocational rehabilitation services portion’), the provisions of a State plan for vocational rehabilitation services, described in this subsection.....:

CSAVR Comment: What is the role of the Commissioner of RSA vs. the Secretary (assuming this means the Secretary of Education) and the Secretary of Labor? It would help clarify if any references to the Secretary would identify specifically which department is being referenced. The RSA Commissioner is to approve the VR portion of the Unified State Plan before it is submitted to DOE and DOL Secretaries for approval. What is the mechanism to resolve differences between RSA and DOL related to the Unified State Plan? Who within the state decides whether a Unified State Plan or a Combined State Plan will be submitted?

The proposed process for the VR State Plan is very prescriptive and disregards consumer input and the States’ rights to determine needs and allocation of resources.

SEC 514 VOCATIONAL REHABILITATION SERVICES

Proposed Language Revision - Section 103 (29 U.S.C.723 is amended (1) in subsection (a) (15) transition services for students with disabilities that facilitates the transition from school to postsecondary life, such as achievement of an employment outcome in competitive integrated employment, or pre-employment transition services described in section 114,¹.....

CSAVR Comment

While the CSAVR believes in and supports the provision of transition services to students with disabilities and acknowledges that early intervention with transition students results in more positive outcomes, CSAVR cannot support the prescriptive nature of services outlined in the proposed definitions of pre-employment transition services and transition services for students with disabilities. There are reporting requirements for both transition services and pre-employment transition services, however, the definitions are very similar and it will be difficult to determine what to report as a transition service and what to report as a pre-employment transition service.

The State VR Programs do not have the staff or financial resources to carry out all of the proposed provisions, and a set aside of 10% of Title 1 funds, with no more than 5% of these funds reserved for administrative costs, will not address the myriad of issues presented by the proposed revisions.

The sheer number of students alone, who would be eligible for these services, collectively numbers more individuals than the entire population of individuals served by State VR Agencies nationally in any given year. For example the State of Texas has approximately 442,000 students with IEP’s. If only 25% of

these students were eligible for pre-employment transition services or transition services that would be more than all of the consumers, adults and youth, the Texas State Agencies serve on an annual basis. This number does not include students with disabilities who may be eligible for VR services under section 504. The VR State Agencies in Texas currently serves 90,000 individuals annually. The proposed provisions, if implemented as written would literally turn VR into a program who predominantly serves students.

If Congress wishes State VR Agencies to embrace the proposed provisions on pre-employment transition services and transition services to students with disabilities, we respectfully request that CSAVR's recommendations for line-item funding for transition services, with no state match and a commitment on the part of Members of Congress to work with State Governor's to remove barriers such as staffing caps on the number of counselors hired in State VR Agencies and furloughs of State VR staff, be given serious consideration. Only then will State VR Agencies be able to obtain sufficient staff and resources to carry out the proposed provisions with an expected level of success.

Without the dedicated resources, for transitioning youth, the task is not only impossible, but is an injustice to students with disabilities for we will raise their hopes and expectations for services that we absolutely cannot deliver. In addition, the services and resources needed for the adult population of individuals with disabilities seeking employment would become secondary, and CSAVR does not believe this was the intent of the Rehabilitation Act of 1973, as Amended.

SEC 559 – EMPLOYMENT OF INDIVIDUALS WITH SIGNIFICANT DISABILITIES AT WAGES BELOW MINIMUM WAGE.

Proposed Language Provisions: The entire section.

CSAVR Comment: The provisions proposed for State VR Agencies under this section are burdensome and again, without staff and resources, would be impossible to implement with any degree of success. CSAVR has not seen any estimates related to the potential number of individuals who would be eligible for pre-employment transition services under 14C or who are currently in sheltered employment and would require semi-annual reviews of sheltered employment and thereafter annual reviews to determine their potential for competitive employment. The prescriptive nature of how these services are to be provided are also problematic and do not allow for an individualized approach to making such determinations, which is the core of the Rehabilitation Act of 1973, as Amended.

SEC. 563 SUPPORTED EMPLOYMENT SERVICES SEC. 631 (Red Line Copy)

CSAVR Comment: While CSAVR supported an increase of 18-24 months in the provision of time for State VR Agencies to assume financial responsibility for supported employment services, we do not support the proposed provisions in Section 631, 632 and 633 of the Red Line Copy of Title V, related to the provision of supported employment services, if it is yet another set-aside in Title I funds. The CSAVR will also oppose the proposed provision in Section 633 which allows State VR Agencies to pay for extended services for supported employment for up to 4 years. The Rehabilitation Act of 1973, as Amended clearly intended that State VR Agencies provide the initial support to stabilize an individual on the job with supports and thereafter to turn the responsibility for long-term funding to other agencies, examples of which would include Medicaid, Ticket to Work, Mental Health and Developmental Disabilities. Given the nature and extent of supported employment services and the significant numbers of individuals who utilize these services, State VR agencies cannot successfully deliver on the proposed provisions, without additional staff and resources.

The CSAVR respectfully requests that current law is maintained related to the provision of long term services and supports for individuals in supported employment. CSAVR also recommends that in Title V of the WIA as Amended, that customized employment be considered as a service option under supported employment and not a free standing service.

SEC 504 DEFINITIONS

10) COMPETITIVE INTEGRATED EMPLOYMENT.

CSAVR Comment: CSAVR commends the HELP Committee for emphasizing the importance of “integration” in the definition of competitive employment. We seek clarity, however, regarding occupations where competitive employment is performed singly, such as self employment, or for example, home based employment home, or in environments where contact with other individuals may not occur or is limited due to the nature and extent of the employment. CSAVR would like an assurance these employment outcomes are acceptable under the definition of competitive integrated employment.

CSAVR also commented on several other definitions in Title I of the WIA and is requesting clarification that the definitions in Title I which are defined differently than they are in the Rehabilitation Act of 1973, as Amended, do not take precedent over the Title V definitions. Specifically, these definitions include, Individual with a Disability, On the Job Training, Customized Training and Rapid Response Activity.

CSAVR is also seeking clarification on the reasons for the different definitions of students with disabilities and youth with disabilities and the specific application of those definitions.

SEC 109: TRAINING AND SERVICES FOR EMPLOYERS

Proposed Language Revision: Section 109(1) "providing training and technical assistance to employers regarding the employment of individuals with disabilities, including disability awareness, and the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et. seq.), the ADA Amendments Act of 2008 (Public Law 110-325, ADAAA) and other employment-related laws;"

Section 109 (5) "supporting a coordinated approach to the development of working relationships between State vocational rehabilitation agencies their community partners, and employers on multi-State and national levels including-"

CSAVR Comment: CSAVR appreciates the work of staff around the expansion of Section 109 to include the full range of services that VR can provide to employers who have or intend to hire individuals with disabilities. The partnership with employers allows the VR system to be more efficient and effective in the IPE process and career focused employment outcomes for the individual while meeting the employment needs of business partners in the public, private and not-for-profit sectors, including federal agencies. CSAVR has two recommendations focused on language to provide clarification. In Section 109(1) CSAVR recommends the inclusion of the ADA Amendments Act to reflect education and support to employers around the most current legislation. CSAVR has noted that the work with employers is referenced in several sections of the proposed language. CSAVR recommends that whatever work VR does with employers be coordinated so that the working relationship with the business does not become burdensome and/or confusing to the employer.

SEC 3 (c) RSA (Red Line Version) The proposed language in this section states that funds may be spent in a manner that is consistent with the purposes of this Act, as enumerated in section 2 (b). This is A change from current law and CSAVR is seeking clarification as to the purpose of this change.

As a final comment, CSAVR is interested in knowing why the Office of Disability and Employment Policy is being authorized under Title V as opposed to Title I of WIA, since they will be funded by the Department of Labor? What are the long term implications of ODEP's authorization in Title V?